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8 **UNITED STATES DISTRICT COURT**
9 **DISTRICT OF NEVADA**
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11 UNITED STATES OF AMERICA,

12 Plaintiff,

13 WALKER RIVER PAIUTE TRIBE,

14 Plaintiff-Intervenor,

15 v.

16 WALKER RIVER IRRIGATION DISTRICT,
17 et al.;

18 Defendants.

19 MINERAL COUNTY,

20 Plaintiff-Intervenor,

21 v.

22 WALKER RIVER IRRIGATION DISTRICT,
23 et al.;

24 Defendants.
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Case Nos. 3:73-CV-00125-MMD-WGC; 3:73-
CV-00127-MMD-WGC; 3:73-CV-00128-
MMD-WGC

IN EQUITY NO. C-125 (including sub-
proceedings C-125-B and C-125-C)

**DEFENDANT COUNTY OF MONO'S
MOTION FOR WAIVER OF CERTAIN
LOCAL RULES PERTAINING TO
ASSOCIATION OF LOCAL COUNSEL
AND OTHER ISSUES IN CONNECTION
WITH PETITION OF JASON CANGER
TO BE ADMITTED *PRO HAC VICE***

(LR IA 11-2(a), (d))

Defendant COUNTY OF MONO (“Mono County”) respectfully submits this motion for waiver of certain local rules, which would mandate the association of local counsel; the use of a particular form; and other requirements, in connection with the verified petition of Jason Canger to appear as counsel *pro hac vice* in the above-numbered case and sub-proceedings (collectively, the “Walker Basin Litigation”).

I. PROCEDURAL HISTORY

Mono County initially appeared in one of the active subfiles in the Walker Basin Litigation, *United States of America, et al. v. Walker River Irrigation District, et al.* (whose present case number is 3:73-CV-00127-MMD-WGC), on May 21, 2003. *See* ECF No. 200 (subfile – B); ECF No. 427 (subfile – C). On the same day, the Office of the Mono County Counsel also filed a motion to be relieved from the requirement of maintaining local resident counsel in the Walker Basin Litigation (including both active sub-proceedings). *See* ECF No. 201 (subfile – B); ECF No. 428 (subfile – C). In that motion, Mono County requested that the Court allow it to represent itself through its county counsel’s office, for reasons including the relative proximity of the county counsel’s office in Mammoth Lakes and Bridgeport, California, to this Court’s facilities in Reno; and the ability to preserve limited taxpayer funds by avoiding the need to retain a private law firm in Nevada. *See ibid.* No objection to Mono County’s motion was received, and at the hearing held before Magistrate Judge McQuaid on June 12, 2003, the motion was granted. *See* ECF No. 203 (subfile – B); ECF No. 432 (subfile – C). The undersigned’s verified petition to appear on behalf of Mono County in the Walker Basin Litigation was also approved on June 13, 2003. (*See* ECF No. 204 (subfile – B); ECF No. 433 (subfile – C). Since that time, with the brief exception of parental leave taken in 2008¹ and for most of 2017 when a deputy in the Office of the Mono County Counsel assumed the responsibility of representing Mono County in the Walker Basin Litigation,² the undersigned has continued to represent the interests of Mono County in the Walker Basin Litigation for the past

¹ In 2008, Mono County sought and received permission for another attorney to represent its interests in the Walker Basin Litigation to accommodate parental leave take by the undersigned. *See* ECF Nos. 1320, 1321 (subfile – B).

² Deputy County Counsel Steve Kerins represented Mono County in the Walker River Litigation upon being admitted *pro hac vice* to this Court on October 18, 2016, *see* ECF No. 1443 in Case No. 3:73-CV-00125, until resigning from the Office of the Mono County Counsel in January 2017.

1 fifteen years.

2 **II. RELIEF FROM CERTAIN LOCAL RULES, INCLUDING REQUIREMENT**
 3 **FOR DESIGNATION OF LOCAL COUNSEL, IS JUSTIFIED**

4 This Court's Local Rules require, among other things, that an applicant for *pro hac vice*
 5 admission "associate[] an active member in good standing of the State Bar of Nevada as attorney of
 6 record in the action or proceeding." LR IA 11-2(a)(5). The Local Rules further provide:

7 *[u]nless the court orders otherwise, an attorney who is granted*
 8 *permission to practice under this rule must associate a resident*
 9 *member of the bar of this court as co-counsel. The attorneys must*
 10 *confirm the association by filing a completed designation of resident*
 11 *counsel on the form provided by the clerk. The resident attorney*
 12 *must have authority to sign binding stipulations...*

13 LR IA 11-2(d) [emphasis added]. The language of this rule affords the Court the discretion to depart
 14 from the "local counsel" requirement where circumstances warrant. This is in addition to the
 15 Court's general authority to "change, dispense with, or waive any of [the Local Rules] if the interests
 16 of justice so require." LR IA 1-4.

17 Many of the same factors informing Mono County's 2003 request for waiver of this Court's
 18 requirement for designation of local counsel continue to exist today. Like all California counties,
 19 Mono County is responsible for the provision of a broad array of services, many of them mandatory,
 20 for the benefit of its inhabitants. *See generally* Cal. Const., Art. XI, § 1(a); Cal Gov. Code, § 23000
 21 *et seq.* [Title 3 of the Government Code, addressing county governments in California]. And like
 22 other local governments in California and elsewhere, Mono County must meet its obligation in an
 23 environment where available funds are limited. Allowing Mono County to appear in the Walker
 24 Basin Litigation through its own salaried attorneys, rather than through retained Nevada counsel,
 25 will continue to assist Mono County in "stretching limited taxpayer dollars" to provide the best
 26 possible representation in the Walker Basin Litigation as well as in the many other legal matters that
 27 the Office of the Mono County Counsel is called to address. *See, e.g.*, ECF No. 201 (subfile – B)
 28 at 2, lines 16-17.

1 **A. Anticipated Ongoing Handling of Walker River Litigation in the Mono**
2 **County Counsel's Office.**

3 Particular since the undersigned's elevation to the role of County Counsel for Mono County
4 following the departure of Mono County's prior County Counsel in December 2015, I have had (and
5 expect to continue to have) less time to devote personally to the Walker River Litigation, and I
6 therefore assigned one of my deputies, Jason Canger, to assist in all matters involving the Walker
7 Basin Litigation. Mr. Canger has already been involved in representing Mono County's interests in
8 connection with the pending Walker Basin Litigation in the Ninth Circuit Court of Appeals (where
9 both he and I are admitted). Nonetheless, in view of the Ninth Circuit Court of Appeals remand of
10 some sub-proceedings to the Nevada District Court and the certification of certain questions of
11 Nevada state law to the Nevada Supreme Court in May 2018, recent activity in the sub-proceedings
12 pending in the Nevada District Court, and recent discussions to settle this sub-proceeding among its
13 primary parties, it is appropriate to pursue Mr. Canger's admission *pro hac vice* in this Court at this
14 time. Alongside Mr. Canger, I will remain attorney of record for Mono County in the Walker River
15 Litigation, both in the Nevada District Court and the Ninth Circuit Court of Appeals, and I will of
16 course remain informed and continue to be available as the Walker Basin Litigation proceeds.

17 Mr. Canger has significant water resources law and litigation experience, including
18 experience practicing in another federal district court in California, and he will maintain familiarity
19 both with this Court's Local Rules and with the standards governing the practice of law by Nevada
20 attorneys that this Court has adopted.

21 **B. Availability of Counsel**

22 In Local Rule IA-11-2(d), *supra*, this Court maintains a general requirement for the
23 association of "a resident member of the bar of this court as co-counsel," absent an order otherwise
24 from the Court. To the extent that this Rule reflects a concern regarding the availability of out-of-
25 state counsel to the Court, Mono County reaffirms its position on that issue as stated in its 2003
26 motion. The Office of the County Counsel's principal location in Mammoth Lakes, California is
27 approximately 168 miles by car from the District Court's facilities in Reno, or about a three-hour
28 drive in typical circumstances, and is far closer to Reno than are Las Vegas and many other locations

1 within Nevada. The Office’s second location in Bridgeport, California, the seat of Mono County,
 2 is even closer – approximately 114 miles by car from the District Court’s facilities, or about a two-
 3 hour drive – and is regularly staffed by the Office’s attorneys, including the undersigned and Mr.
 4 Canger. Moreover, the attorneys from the Office of the County Counsel can be available for all
 5 necessary appearances before this Court and can be available on short notice.

6 **C. Required Form**

7 As a final matter, this Court’s Local Rules require that applicants for admission *pro hac vice*
 8 in a particular case be made “by verified petition on the form furnished by the clerk.” Local Rule
 9 IA-11-2(a). Because of the associated requests in this motion, as well as because of the
 10 inapplicability of that form’s standardized language,³ Mono County further requests that this Court
 11 dispense with the requirement for use of the standard form.

12 **III. CONCLUSION**

13 For the foregoing reasons, if this Court should admit Mr. Canger *pro hac vice* to represent
 14 Mono County in the Walker Basin Litigation, Mono County respectfully requests that the Court
 15 further waive the requirement for association with Nevada counsel, as well as the formal
 16 requirement that Mr. Canger’s verified petition for admission to practice in a particular case be

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 26 ³ For examples, the form would have the petitioner verify that he or she “is an attorney at law and a member of the
 27 law firm of _____,” as well as that he or she “has been retained personally or as a member of the law firm”
 28 by his or her client(s). In this instance, of course, the Office of the Mono County Counsel is not a law firm (at least
 not in the typical request), and its attorneys are not “retained” to represent Mono County. Instead, their representation
 of Mono County is authorized by state statute and by county ordinance. For these reasons, more particularized
 language is needed.

1 transmitted on a court-approved form.

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3 Dated: March 15, 2019

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Respectfully submitted,

STACEY SIMON, County Counsel

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By: 

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Stacey Simon, County Counsel

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Office of the County Counsel

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Mono County

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Attorneys for Defendant COUNTY OF
MONO

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PETITION FOR ADMISSION TO PRACTICE

I, Jason Canger (“Petitioner”), respectfully represent to the Court:

1. That Petitioner is a Deputy County Counsel for the County of Mono (California) and is an Attorney in the Office of the Mono County Counsel’s Office, County of Mono (California), whose principal office is located at 452 Old Mammoth Road, 3rd Floor, P.O. Box 2415, Mammoth Lakes, California 93546, telephone: (760) 932-1700, email: jcanger@mono.ca.gov.

2. That Petitioner has been assigned by the County Counsel, County of Mono (California) to provide legal representation in connection with the above-entitled case now pending before this Court.

3. That since June 3, 2014, Petitioner has been and presently is a member in good standing of the bar of the highest Court of the State of California, the State in which Petitioner regularly practices law.

4. That attached to this Petition as “Exhibit A” is a true and correct copy of a Certificate of Standing pertaining to Petitioner, issued by the State Bar of California on March 6, 2019.

5. That Petitioner was admitted to practice before the following United States District Court and United States Circuit Court of Appeals on the dates indicated for each, and that Petitioner is presently a member in good standing of the bars of said Courts.

Court	Date of Admission	Bar Number
Supreme Court of California	June 3, 2014	296596
United States District Court, Eastern District of California	February 11, 2016	
United States Court of Appeals for the Ninth Circuit	August 10, 2017	

6. That there are or have been no disciplinary proceedings instituted against Petitioner; or any suspension of any license, certificate or privilege to appear before any judicial,

1 regulatory, or administrative body; or any resignation or termination in order to avoid disciplinary
2 or disbarment proceedings.

3 7. That Petitioner has never been denied admission to the State Bar of Nevada.

4 8. That Petitioner is, as of the date of this Petition, a member in good standing of the
5 following additional bar associations: the Mono County Bar Association. (Note that Petitioner's
6 membership in such additional bar associations may or may not continue during or throughout the
7 pendency of the above-entitled action.)

8 9. That Petitioner has filed the following applications(s) to appear as local counsel
9 under Local Rule IA 11-2 (formerly LR IA 10-2) during the past three years in the following
10 matters: NONE.

11 10. That Petitioner consents to the jurisdiction of the courts and disciplinary boards of
12 the State of Nevada with respect to the law of this state governing the conduct of attorneys to the
13 same extent as a member of the State Bar of Nevada.

14 11. That Petitioner agrees to comply with the standards of professional conduct
15 required of the members of the bar of this Court.

16 12. That Petitioner has disclosed in writing to the client that Petitioner is not admitted
17 to practice in Nevada.⁴

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22 _____
23 ⁴ The standard form states: "Petitioner has disclosed in writing to the client that the applicant is not admitted to
24 practice in this jurisdiction and that the client has consented to such representation." In this instance, Petitioner's
25 client is the County of Mono (California), by and through its Board of Supervisors. As with most or all local public
26 agencies in California, any *specific* consent of the Board of Supervisors would need to be obtained through a meeting
27 held pursuant to the Ralph M. Brown Act, Cal. Gov. Code, § 54950 *et seq.* Nonetheless, as noted above, the Office of
28 the Mono County Counsel is authorized by statute and ordinance to defend lawsuits against Mono County, including
the Walker Basin Litigation. *See, e.g.*, Cal. Gov. Code, § 26521 [county's district attorney to defend suits against
county whenever brought; *ibid.*, § 27642 [county counsel to discharge all of district attorney's former duties except
those of public prosecutor]; *id.* § 26529(a) [county counsel to defend all civil actions and proceedings in which county
is concerned or is a party]; *see also* Mono County Code, § 2.78.010 *et seq.* Further, Mono County, through its
authorized representatives, has also been informed that Petitioner is not generally admitted to practice in Nevada and
that Petitioner is seeking admission in this Court *pro hac vice*, or for this case only.

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4 13. That Petitioner respectfully prays that Petitioner be admitted to practice before this
5 Court FOR THE PURPOSES OF THIS CASE AND RELATED SUB-PROCEEDINGS ONLY.

6 I declare under penalty of perjury under the laws of the United States of America that the
7 foregoing is true and correct to the best of my knowledge.

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Petitioner's Signature

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Executed this 15TH day of March 2019 at Mammoth Lakes, California.

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Exhibit A

California Bar Association Certificate of Standing



THE STATE BAR OF CALIFORNIA

180 HOWARD STREET, SAN FRANCISCO, CALIFORNIA 94105-1617

TELEPHONE: 888-800-3400

CERTIFICATE OF STANDING

March 6, 2019

TO WHOM IT MAY CONCERN:

This is to certify that according to the records of the State Bar, JASON T. CANGER, #296596 was admitted to the practice of law in this state by the Supreme Court of California on June 3, 2014; and has been since that date, and is at date hereof, an ACTIVE member of the State Bar of California; and that no recommendation for discipline for professional or other misconduct has ever been made by the Board of Trustees or a Disciplinary Board to the Supreme Court of the State of California.

THE STATE BAR OF CALIFORNIA

A handwritten signature in blue ink, appearing to read "NV", is positioned above the name Denise Velasco.

Denise Velasco
Custodian of Records

United States of America, et al. v. Walker River Irrigation District, et al.

United States District Court, District of Nevada case numbers 3:73-CV-00125-MMD-WGC;
3:73-CV-00127-MMD-WGC; 3:73-CV-00128-MMD-WGC

Certificate of Service

I hereby certify that I am admitted to practice in this Court for purposes of this case. I further certify that, on the 21st day of March, 2019, I electronically filed:

- COUNTY OF MONO'S MOTION FOR WAIVER OF CERTAIN LOCAL RULES PERTAINING TO ASSOCIATION OF LOCAL COUNSEL AND OTHER ISSUES IN CONNECTION WITH PETITION OF JASON CANGER TO APPEAR *PRO HAC VICE*;
- PETITION OF JASON CANGER FOR ADMISSION TO PRACTICE IN THIS CASE ONLY;
- CERTIFICATE OF SERVICE

with the Clerk of the Court using the CM/ECF system, which will send notification of such filing to registered recipients via their email addresses.

Dated: March 21, 2019



STACEY SIMON